

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0329P WTH**

**Withholding Tax  
December 31, 1996**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the imposition of the negligence penalty.

**STATEMENT OF FACTS**

Taxpayer files WH-1 returns and has been assessed a penalty for filing its December 1997 WH-1 return late. The Department has obtained a copy of the postmark which shows a metered postmark date of January 26, 1998 and Carol Stream, IL postmark date of January 26, 1998. Taxpayer's monthly returns are due on or before the twentieth of the month.

**I. Tax Administration – Penalty**

**DISCUSSION**

At issue is whether the taxpayer was negligent in remitting tax timely.

Taxpayer, in its letter of protest states that the copy of its check is dated January 6, 1998 and the postmark date on January 26, 1998 is none other than human error.

The department obtained a copy of the postmark which indicates the postmark of January 26, 1998 by a postage meter and a Carol Stream, IL post office stamped the same date.

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The taxpayer has not provided reasonable cause to void the penalty assessment.

**FINDING**

Taxpayer's protest is denied.